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DISCRIMINATION AGAINST FAMILIES WITH CHILDREN  
IN PALO ALTO RENTAL HOUSING DURING FY91-92

A Report to the City of Palo Alto  
Submitted by  
Midpeninsula Citizens for Fair Housing  
May, 1992

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## INTRODUCTION

This report contains an analysis of data obtained in an audit of 20 apartment complexes listed in the Palo Alto phone book and the May 8, 1992 Peninsula Times Tribune newspaper, under the heading, "apartments for rent-unfurnished". The purpose of this survey was to ascertain management policies about renting a two-bedroom apartment to a family of four. The audit reveals how the rental market responded to a couple with two children seeking an apartment in Palo Alto.

## AUDIT DESIGN

A man posing as a home seeker called 40 apartment complexes. He was looking for an apartment for himself, his wife and their two children. He was able to speak with the managers at 20 of the 40 apartment buildings called. The managers contacted controlled 2,110 units of housing. The other managers did not answer their telephones or had answering machines on during the audit period.





## AUDIT REPORT

- o The Fair Housing Amendments Act of 1988 added "familial status" to the classes protected by Federal law. Its enforcement agency, H.U.D., accepts complaints about acts of discrimination which are permitted under Palo Alto Municipal Code 9.74.030 (e.g. certain occupancy limits).
- o The California State Department of Fair Employment and Housing accepts certain complaints of discrimination against families with children based on occupancy limitations more restrictive than two people per bedroom plus one person, and is thus more demanding than Palo Alto's Fair Housing Ordinance (M.C. 9.74.030).
- o Some Palo Alto property owners use the City's occupancy standard to set a maximum on the number of people per bedroom (2), rather than as a minimum as intended by the City.
- o Of the complexes surveyed, 20% had policies constituting illegal discrimination against families with children.
  - For 10% of the buildings contacted, there was a maximum occupancy limit of 3 people per 2 bedrooms.
  - 10% of the apartment buildings polled would not rent a two-bedroom apartment to a couple with two children unless the children were of the same sex.

\* Note: A further 5% of the buildings were willing to rent a 2-bedroom apartment to a family of four, but were not willing to rent a 2-bedroom apartment to 4 adults. To require 4 adults to rent a 3-bedroom apartment is considered discriminatory under State and Federal law, and conflicts with Section 503(b) of the Uniform Housing Code of the State of California (attached).

SHORT REPORT

The first section of the report is devoted to a description of the experimental conditions. It is noted that the experiments were carried out in a room of approximately 100 m<sup>2</sup> area, with a temperature of about 20°C. The subjects were seated at a table, and the distance between the subject and the screen was 1.5 m. The screen was 1.2 m high and 0.8 m wide. The subjects were asked to observe the screen and to report the position of the target as accurately as possible.

The second section of the report describes the results of the experiments. It is shown that the subjects were able to observe the target and to report its position with a high degree of accuracy. The mean error was found to be 0.5 cm, and the standard deviation was 0.3 cm. It is concluded that the subjects were able to observe the target and to report its position with a high degree of accuracy.

The third section of the report discusses the implications of the results. It is suggested that the results of the experiments may be useful in the design of visual displays. It is noted that the subjects were able to observe the target and to report its position with a high degree of accuracy, and that this may be useful in the design of visual displays.

The fourth section of the report contains a summary of the results. It is noted that the subjects were able to observe the target and to report its position with a high degree of accuracy, and that this may be useful in the design of visual displays.

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## STATISTICS

### Occupancy Policies at 20 Complexes Audited (2,110 units)

	No. of Units	No. of Buildings
Restrict occupants to three people/2-bedroom apartment	144	2
Restrict married couples with different sex children to a 3-bedroom apartment	224	2
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TOTAL	368	4

#### Additionally:

*Restrict 4 adults to a 3-bedroom apartment	156	1
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\*See note, page 2

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## CONCLUSION

Of the 2,110 Palo Alto housing units involved in this audit, 524 units (24.8%) are subject to management policies which are deemed discriminatory under Federal and State law. 368 of the 2,110 units (17.4%) are subject to management policies which are deemed discriminatory under Palo Alto M.C. 9.74.030 (attached).

The Palo Alto City Council found in 1983 that, "arbitrary discrimination against persons with minor children exists in the City of Palo Alto". The Council also found that, "the overall effect of such discrimination is to encourage the flight of families from the City of Palo Alto, resulting in the decline of stable, intergenerational neighborhoods, the closure of schools, and the reduction of social and recreational services for children and their families". M.C. 9.74.010.

The burden of expensive rental housing compounded by the humiliation and frustration of discrimination continues to require a serious response by the City in protecting its citizens from discrimination. Unfortunately, the nature of discrimination is that a single effort to counteract it is never enough. A concerted, coordinated effort over the long term is necessary for lasting results.

Therefore, MCFH asks that the City of Palo Alto consider the following:

- A. Amending Palo Alto Municipal Code 9.74.030(a)(7) to more closely conform with State occupancy standards of 2 persons per bedroom plus 1 additional person for the unit.
- B. Drafting a letter to all property owners/managers of rental housing in the City, reminding them of their responsibilities under the above ordinance, and that the City expects full compliance.
- C. Be willing to petition the court for injunctive relief allowed under M.C. 9.74.060 if the above discriminatory practices do not fully cease after MCFH's intervention.

of the 1970s. This period was characterized by a high level of economic growth and a significant increase in the number of people living in poverty. The government's response to these conditions was to implement a series of social welfare programs, including the creation of the Social Security Administration and the establishment of the Department of Health and Human Services.

The 1970s also saw a significant increase in the number of people living in poverty. This was due to a variety of factors, including a decline in the economy, a rise in inflation, and a decrease in the number of people working. The government's response to these conditions was to implement a series of social welfare programs, including the creation of the Social Security Administration and the establishment of the Department of Health and Human Services.

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Therefore, with regard to the 1970s, the following points are relevant:

1. The 1970s saw a significant increase in the number of people living in poverty.
2. This was due to a variety of factors, including a decline in the economy, a rise in inflation, and a decrease in the number of people working.
3. The government's response to these conditions was to implement a series of social welfare programs, including the creation of the Social Security Administration and the establishment of the Department of Health and Human Services.



nanced with mortgage revenue bonds shall be sold only to qualified buyers. The qualified buyers of each such unit shall grant to the city a right of first refusal to purchase the unit pursuant to deed restrictions to be recorded as part of any grant deed with the county recorder of Santa Clara County; provided, that the base price, as set forth in the deed restrictions, shall be increased by two-thirds of the percentage increase in the Consumer Price Index from the date of the purchase of a unit by the seller to the date of receipt by city of the notice of intent to sell. (Ord. 3505 §2, 1984; Ord. 3336 §1 (part), 1982)

#### **9.70.040 Exceptions to resale control requirements.**

Unless they are more restrictive, the resale controls established by Section 9.70.030 shall not apply to units designated as BMR units under the city's below market rate program or to any other units for which resale controls have been established by the city. (Ord. 3505 §3, 1984; Ord. 3336 §1 (part), 1982)

### **CHAPTER 9.74**

#### **DISCRIMINATION AGAINST FAMILIES WITH MINOR CHILDREN IN HOUSING**

##### **9.74.010 Findings and purpose.**

(a) The city council finds and declares that:

(1) Arbitrary discrimination against persons with minor children exists in the city.

(2) The existence of such discrimination poses a substantial threat to the public health and welfare of a large segment of the community, namely, families with children.

(3) The overall effect of such discrimination is to encourage the flight of families from the city, resulting in the decline of stable, intergenerational neighborhoods, the closure of schools, and the reduction of social and recreational services for children and their families.

(4) Such discrimination cuts across all racial, ethnic, and economic lines, but falls most heavily on minority and single-parent families with children.

(5) It is consistent with the housing element of the general plan to promote and ensure open and free choice of housing without discrimination on the basis of age or family composition.

(6) Because housing is a fundamental necessity of life, it is against the public policy of the city to discriminate in rental housing against persons based upon their age, parenthood, pregnancy, or the potential or actual tenancy of a minor child.

(Ord. 3411 §1 (part) 1983)

##### **9.74.020 Definitions.**

(a) For the purposes of this chapter, certain terms are defined as follows:

(1) "Senior adults" means persons sixty-two years of age or older.

(2) "Housing accommodations" means any residential rental unit consisting of one or more rooms in which cooking facilities are available.

(3) "Minor child" means any natural person under the age of eighteen years.

(4) "Person" means any individual, firm, partnership, joint venture, association, corporation, estate, or trust.

(Ord. 3411 §1 (part), 1983)

##### **9.74.030 Prohibited activities.**

(a) It is unlawful for any person having a housing accommodation for rent or lease, or any authorized agent or employee of such person, to do or attempt to do any of the following:

(1) Refuse to rent or lease a housing accommodation, refuse to negotiate for the rental or lease of a housing accommodation, or otherwise deny to or withhold from any person or persons, a housing accommodation on the basis of age, parenthood, pregnancy, or the potential or actual tenancy of a minor child;

(2) Discriminate against any person in the terms, conditions, or privileges of the rental or lease of a housing accommodation, or in the pro-

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vision of services, facilities or benefits, in connection therewith, on the basis of age, parenthood, pregnancy, or the potential or actual tenancy of a minor child. However, nothing in this chapter shall preclude any person from imposing reasonable restrictions on the use of common areas, facilities, and services which are necessary to protect the health and safety of a tenant:

(3) Represent to any person on the basis of age, parenthood, pregnancy, or the potential or actual tenancy of a minor child that a housing accommodation is not available for inspection, rental, or lease when such housing accommodation is, in fact, available;

(4) Make, print, or publish, or cause to be made, printed, or published any notice, statement, sign, advertisement, application, or contract with regard to a housing accommodation offered by that person that indicates any preference, limitation, or discrimination with respect to age, parenthood, pregnancy, or the potential or actual tenancy of a minor child;

(5) Include in any rental agreement or lease for a housing accommodation, a clause or condition providing that as a condition of continued tenancy, the tenants shall remain childless or shall not bear children or otherwise not maintain a household with a person of a certain age;

(6) Refuse to rent after making a bona fide offer, or to refuse to negotiate for the rental of, or otherwise make unavailable or deny, housing accommodations to any person because of the potential tenancy of a minor child or children;

(7) Limit occupancies to fewer than two natural persons per bedroom, unless that number exceeds the maximum allowed under the superficial floor-space requirements of Section 503(b) of the Uniform Housing Code. For those housing accommodations without any bedroom, no person shall be required to rent or lease to more than one person. In no case shall such occupancy limits apply to a newborn infant during the term of any lease in effect on the date of birth of such infant unless that limit implements the superficial floor-space requirements of Section 503(b) of the Uniform Housing Code. All occupancies limitations

shall be uniformly imposed and either conspicuously posted on the premises or contained in a written policy, rules or notice;

(8) Evict or otherwise demand surrender of a housing accommodation from any person because of age, parenthood, pregnancy or presence of a minor child;

(9) Charge additional rent for persons living in a housing accommodation on the basis of age, parenthood, pregnancy, or presence of a minor child.

(Ord. 3411 §1 (part), 1983)

#### 9.74.040 Exemptions.

(a) Nothing contained in this chapter shall apply to or be construed:

(1) To affect a housing project or development where the owner has publicly established and implemented a policy of renting exclusively to senior adults and their spouses. Deviance from or abandonment of that policy shall automatically terminate this exemption and subject the owner to all the provisions of this chapter;

(2) To affect any state licensed nursing home, convalescent home, or community care facility;

(3) To apply to any housing accommodation occupied by the owner;

(4) To apply to any housing accommodation occupied by a tenant who subleases any portion of that accommodation to another tenant;

(5) To affect any area or tract of land where two or more mobile home lots are rented or leased or held out for rent or lease to accommodate mobile homes used for human habitation.

(Ord. 3411 §1 (part), 1983)

#### 9.74.050 Requirements of financial obligations not prohibited.

This chapter shall not prohibit the person having the right to rent or lease the premises from requiring the same rent, deposits, fees or charges of prospective adult tenants with minor children as he or she may require of prospective adult tenants without children. However, no discrimination in the amount or manner of payment of the





rent, deposits, fees or charges shall be permitted. (Ord. 3411 §1 (part), 1983)

#### **9.74.060 Penalties/remedies.**

(a) Criminal. Violations of this chapter shall constitute an infraction.

(b) Civil. Any person who violates the provisions of this chapter shall be liable to each party injured by such violation for actual damages sustained by such person, costs and reasonable attorneys' fees. In addition, the court may award punitive damages.

(c) Injunctive relief.

(1) Any person who commits, or proposes to commit, an action in violation of this chapter may be enjoined therefrom by any court of competent jurisdiction.

(2) Any action for injunctive relief under this chapter may be brought by the city attorney, by any aggrieved person, by other law enforcement agencies, by the district attorney or by any person or entity which will fairly and adequately represent the interests of the protected class. (Ord. 3411 §1 (part), 1983)

## **CHAPTER 9.78**

### **MOSQUITO ABATEMENT**

#### **9.78.010 Declaration of findings, intent and policy.**

The city council expressly finds and declares that mosquito breeding places constitute a hazard to public health. It is the intent of this chapter to establish procedures for abating mosquito breeding places and to provide legal means for recovering the cost of abatement. (Ord. 3470 §1 (part), 1983)

#### **9.78.020 Mosquito breeding places.**

No person shall permit any accumulation of water upon any premises in which mosquitos breed. Any breeding place for mosquitos is a public nuisance and a hazard to public health. The

presence of mosquito larvae or pupae in any accumulation of water, whether upon the ground surface, pond, pool or container of any description shall constitute prima facie evidence that such a place is a breeding place for mosquitos. (Ord. 3470 §1 (part), 1983)

#### **9.78.030 Enforcement.**

It shall be the duty of the health officer to enforce the provisions of this chapter; and in the performance of this duty, the health officer is authorized to enter at any reasonable hour any premises as may be necessary in the enforcement of this chapter. (Ord. 3470 §1 (part), 1983)

#### **9.78.040 Notice to abate.**

Whenever a public nuisance specified in this chapter exists upon any property, the health officer may notify in writing the owner and party in possession, or the agent of either, of the existence of the nuisance. The written notice may be served by any person authorized by the health officer in the same manner as a summons in a civil action. The contents of the written notice shall conform to the requirements of Section 9.78.050. (Ord. 3470 §1 (part), 1983)

#### **9.78.050 Contents of notice.**

The notice shall:

(a) State the finding of a health officer that a public nuisance exists on the property and the location of such nuisance on property;

(b) Direct the owner and party in possession to abate the nuisance within a specified time by destroying the larvae or pupae that are present;

(c) Direct the owner and party in possession to perform, within a specified time, any work necessary to prevent recurrence of breeding in the places specified in the notice;

(d) Inform the owner and party in possession that failure to comply with the requirements of subsection (b) of this section shall subject the owner and party in possession to civil penalties of not more than five hundred dollars per day for each day the nuisance continues after the time







## Chapter 5

### SPACE AND OCCUPANCY STANDARDS

#### Location on Property

Sec. 501. All buildings shall be located with respect to property lines and to other buildings on the same property as required by Section 504 and Part IV of the Building Code.

#### Yards and Courts

Sec. 502. (a) **Scope.** This section shall apply to yards and courts having required windows openings therein.

(b) **Yards.** Every yard shall be not less than 3 feet in width for one-story and two-story buildings. For buildings more than two stories in height the minimum width of the yard shall be increased at the rate of 1 foot for each additional story. Where yards completely surround the building, the required width may be reduced by 1 foot. For buildings exceeding 14 stories in height, the required width of yard shall be computed on the basis of 14 stories.

(c) **Courts.** Every court shall be not less than 3 feet in width. Courts having windows opening on opposite sides shall be not less than 6 feet in width. Courts bounded on three or more sides by the walls of the building shall be not less than 10 feet in length unless bounded on one end by a public way or yard. For buildings more than two stories in height the court shall be increased 1 foot in width and 2 feet in length for each additional story. For buildings exceeding 14 stories in height, the required dimensions shall be computed on the basis of 14 stories.

Adequate access shall be provided to the bottom of all courts for cleaning purposes. Every court more than two stories in height shall be provided with a horizontal air intake at the bottom not less than 10 square feet in area and leading to the exterior of the building unless abutting a yard or public way. The construction of the air intake shall be as required for the court walls of the building, but in no case shall be less than one-hour fire-resistive.

#### Room Dimensions

Sec. 503. (a) **Ceiling Heights.** Habitable space shall have a ceiling height of not less than 7 feet 6 inches except as otherwise permitted in this section. Kitchens, halls, bathrooms and toilet compartments may have a ceiling height of not less than 7 feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than 48 inches on center, ceiling height shall be measured to the bottom of these members. Where exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than 7 feet above the floor.

If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

If any room has a furred ceiling, the prescribed ceiling height is required in two-

thirds the area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

(b) **Floor Area.** Every dwelling unit shall have at least one room which shall have not less than 120 square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than 70 square feet. Where more than two persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of 50 square feet for each occupant in excess of two.

**EXCEPTION:** Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:

1. The unit shall have a living room of not less than 220 square feet of superficial floor area. An additional 100 square feet of superficial floor area shall be provided for each occupant of such unit excess of two.
2. The unit shall be provided with a separate closet.
3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(c) **Width.** No habitable room other than a kitchen shall be less than 7 feet in any dimension.

Each water closet stool shall be located in a clear space not less than 30 inches in width and a clear space in front of the water closet stool of not less than 24 inches shall be provided.

#### Light and Ventilation

Sec. 504. (a) **Natural Light and Ventilation.** All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural light by means of exterior glazed openings with an area not less than one-tenth of the floor area of such rooms with a minimum of 10 square feet. All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than one-twentieth of the floor area of such rooms with a minimum of 1 1/2 square feet.

All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural ventilation by means of openable exterior openings with an area of not less than one-twentieth of the floor area of such rooms with a minimum of 5 square feet.

(b) **Origin of Light and Ventilation.** Required exterior openings for natural light and ventilation shall open directly onto a street or public alley or a yard or court located on the same lot as the building.

**EXCEPTION:** Required windows may open into a roofed porch where the porch:

1. Abuts a street, yard, or court; and
2. Has a ceiling height of not less than 7 feet; and
3. Has the longer side at least 65 percent open and unobstructed.

A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than 4 feet in least dimension. No vent shaft shall extend through more than two stories.





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